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NO. 2329 P. 1/10

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FAX TRANSMISSION

DATE: *July 18, 2006*

PTO IDENTIFIER: Application Number 10/561,001
Patent Number

Inventor: Valerie Andre et al.

MESSAGE TO: US Patent and Trademark Office

FAX NUMBER: (571) 273-8300

FROM: CONNOLLY BOVE LODGE & HUTZ LLP
Ashley I. Pezzner

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Attorney Dkt. #: 12810-00180-US

PAGES (Including Cover Sheet): 10

CONTENTS: Transmittal Of International Preliminary Report On Patentability
International Preliminary Report On Patentability
Certificate of Transmission (1 page)

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476965_1

Application No. (if known): 10/561,001

Attorney Docket No.: 12810-00180-US

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Transmittal Of International Preliminary Report On Patentability
International Preliminary Report On Patentability

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NO. 2329 P. 3/10

Application No.: 10/561,001

JUL 18 2006

Docket No.: 12810-00180-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Valerie Andre et al.

Application No.: 10/561,001

Confirmation No.: N/A

Filed: December 16, 2005

Art Unit: N/A

For: MIXTURE CONSISTING OF UV-A AND UV-
B FILTERS

Examiner: Not Yet Assigned

**TRANSMITTAL OF INTERNATIONAL PRELIMINARY REPORT ON
PATENTABILITY**

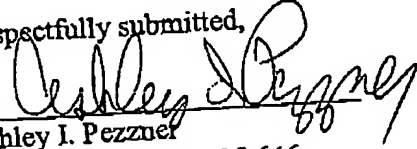
MS PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant submits herewith the International Preliminary Report On Patentability issued in the corresponding international application. The PCT Examiner noted that claims 1-4 had industrial applicability.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 03-2775, under Order No. 12810-00180-US.

Respectfully submitted,

By 
Ashley I. Pezzner

Registration No.: 35,646
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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 0000054642	FOR FURTHER ACTION		See item 4 below
International application No. PCT/EP2004/008158	International filing date (day/month/year) 08 June 2004 (08.06.2004)	Priority date (day/month/year) 24 June 2003 (24.06.2003)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant BASF AKTIENGESELLSCHAFT			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
2. This REPORT consists of a total of 7 sheets, including this cover sheet.
In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Box No. I | Basis of the report |
| <input checked="" type="checkbox"/> Box No. II | Priority |
| <input type="checkbox"/> Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI | Certain documents cited |
| <input type="checkbox"/> Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

Date of issuance of this report
01 May 2006 (01.05.2006)

Authorized officer

Agnes Wittmann-Regis

Telephone No. +41 22 338 89 70

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Facsimile No. +41 22 740 14 35

Form PCT/IB/373 (January 2004)

PATENT COOPERATION TREATY

Translation

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

Date of mailing
(day/month/year)

FOR FURTHER ACTION

See paragraph 2 below

Applicant's or agent's file reference

0000054642

International application No.

PCT/EP2004/006158

International filing date (day/month/year)

08.06.2004

Priority date (day/month/year)

24.06.2003

International Patent Classification (IPC) or both national classification and IPC

Applicant

BASF AKTIENGESELLSCHAFT

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

Form PCT/ISA/237 (cover sheet) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/006158

Box No. 1

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
- a. type of material
- ☐ a sequence listing
- ☐ table(s) related to the sequence listing
- b. format of material
- ☐ in written format
- ☐ in computer readable form
- c. time of filing/furnishing
- ☐ contained in the international application as filed.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:
- i. Reference is made to the following documents:
- D1: DE 100 63 946 A (BASF AG) 4 July 2002
- D2: DE 957 162 C (THOMAE GMBH DR K) 31 January 1957)

Form PCT/ISA/237 (Box No. 1) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/006158

Box No. II

Priority

1. ☒ The following document has not yet been furnished:
- ☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
 - ☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).
- Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

Form PCT/ISA/237 (Box No. II) (January 2004)

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY		International application No. PCT/EP2004/006158
Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	
1. Statement		
Novelty (N)	Claims _____ YES Claims <u>1-4</u> _____ NO	
Inventive step (IS)	Claims _____ YES Claims <u>1-4</u> _____ NO	
Industrial applicability (IA)	Claims <u>1-4</u> _____ YES Claims _____ NO	
2. Citations and explanations:		
<p>v.1 The present application does not satisfy the requirements of PCT Article 33(1) because the subject matter of claims 1 to 4 is not novel within the meaning of PCT Article 33(2).</p> <p>Document D1 discloses (cf. page 2 line 54 to page 3 line 10, page 5 lines 52 to 62, page 6 lines 55 to 56, page 7 lines 15 to 16 and examples 2 to 10 and 13) the use of photoprotective agent combinations comprising a compound of the formula I and one or more compounds chosen from the compounds II to XVIII.</p> <p>The formula II described in document D1 is the formula II of the present application and or the formula XIII the formula I.</p> <p>The examples 2 to 10 and 13 presented in D1 describe mixtures of a plurality of photoprotective agents which comprise 2-ethylhexyl p-methoxycinnamate.</p> <p>The subject matter of the present claims 1 to 4 is therefore not novel.</p>		

Form PCT/ISA/237 (Box No. V) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCI/EP2004/006158

Box No. V

Reasoned statement (under Rule 43bis.1(a)(i)) with regard to novelty, inventive step or industrial applicability;
conditions and explanations supporting such statement

v.2 The present application does not satisfy the requirements of PCT Article 33(1) because the subject matter of claims 1 to 4 does not involve an inventive step within the meaning of Article 33(3).

The object of the present application is to prevent diethylamino hydroxybenzoyl hexyl benzoate (Unvinul® A Plus) from crystallizing out.

This object was achieved by introducing 2-ethylhexyl p-methoxycinnamate (Unvinul® MC 80).

The teaching described in D2 is that "basic esters and amides of p-methoxycinnamic acid/.../ constitute exceptionally effective photoprotective substances due to their favourable absorption spectra" and exhibit no crystallization tendency (see page 1 line 28 to page 2 line 15).

A composition X which comprises Unvinul® A Plus and Unvinul® MC 80 will therefore, in a manner obvious to the person skilled in the art, exhibit less crystallization than a composition Y which comprises only Unvinul® A Plus.

The person skilled in the art would then only be surprised if the composition X had no crystallization despite the presence of Unvinul® A Plus.

This was not shown.

The subject matter of the present claims 1-4 can

Form PCT/ISA/237 (Box No. V) (January 2004)

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY		International application No. PCT/EP2004/006158
Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability: statements and explanations supporting such statement	
therefore not be regarded as inventive.		